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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,153	01/26/2001	Travis Parry	10007475-1	6206

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EXAMINER

STEVENS, ROBERT

ART UNIT	PAPER NUMBER
2176	4

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/771,153	PARRY, TRAVIS
Examiner	Art Unit	
Robert M Stevens	2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 January 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 January 2001 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2: 26 Jan 2001.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. .
5) Notice of Informal Patent Application (PTO-152)
6) Other: .

DETAILED ACTION

1. This action is responsive to communications: original application 09/771153, entitled "Electronic Book Kiosk", filed January 26, 2001.
2. Claims 1-9 are pending. Claims 1 and 9 are independent.
3. An acknowledged copy of Applicant's IDS form 1449 (Paper Number 2) is attached to the current Office Action.

Drawings

4. Applicant is requested to delete reference #2 from the FIGURE. For rationale, see section labeled "Specification" below.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:
 - a. Please correct all spelling/grammatical mistakes throughout the Application. Examples include:
Page 2 line 8 "downloaded" should be "download".

Page 2 line 22 contains an incomplete sentence (ending as

"in which:")

b. Applicant is requested to change all references to "method 2" (including page 2, line 30 and page 3, line 2) to "embodiment 1".

Examiner requests such change because only one embodiment is disclosed. Additionally, some confusion exists in that the current reference ("method 2") could be misconstrued as referring to the claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al (US Patent No. 6,697,944, filed Oct 1, 1999, and referred to hereafter as "Jones") in view of Muhammad (US Publication No. 2003/0061164, provisionally filed Dec 3, 1999).

Regarding claim 1, Jones discloses a method for obtaining electronic reading materials, wherein said method is comprised of the steps of:

selecting a desired reading material title (col 11 lines 55-56),
paying for said desired title (col 11 line 56), and
downloading said desired title to a personal communication device
(PCD) (col 11 lines 56-57).

Note that Examiner considers that digital content file constitutes desired reading material.

However, Jones does not explicitly disclose downloading electronic reading materials into the kiosk.

Muhammad teaches downloading electronic reading materials into the kiosk on page 1 at paragraph 0008 ("the seller transmits the intellectual property to the kiosk."). Examiner considers electronic reading materials to be intellectual property.

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Muhammed for the benefit of Jones because this would provide a seller of intellectual property with a distribution network without the high entry barriers associated with known methods of intellectual property distribution (as taught by Muhammad on page 1, paragraph 0008, top of second column).

Regarding claim 2, Muhammad teaches wherein the step of downloading electronic reading materials into a kiosk is further comprised of the step of

downloading electronic reading materials from the Internet on pages 1 and 2 in paragraph 0018 ("The communications network 110 is preferably implemented using TCP/IP over a public packet switched network such as the Internet."). Also refer to Figure 4, in which the Communications Medium (or network) 110 is illustrated connected to a Merchant Kiosk 431 and Seller Computer 421, taken in context of page 1 paragraph 0008, in which Muhammad discloses the seller transmitting the intellectual property (e.g., electronic reading materials) to the kiosk. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Muhammed for the benefit of Jones because this would decrease costs associated with distributing electronic reading materials (e.g., shipping and storing copies locally).

Regarding claim 3, Muhammad teaches wherein said step of downloading electronic reading materials into a kiosk is further comprised of the step of downloading electronic materials locally on page 2 paragraph 0018. Refer to the last sentence mentioning the use of a private network, which Examiner considers to be local to a kiosk. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Muhammed for the benefit of Jones because downloads may be accomplished quicker (without latency issues) and more securely (without malicious network intruder issues) than via a remote network, such as the Internet.

Regarding claim 4, Muhammad teaches wherein said paying step is further comprised of the step of paying an attendant located substantially adjacent to said kiosk on page 3 at paragraph 0036. (In particular: "The user of the Buyer module (the ultimate customer) then pays the operator of the retail establishment, This method could, of course, also be used with unattended kiosks") It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Muhammed for the benefit of Jones because this enabled a merchant to handle cash transactions rather than requiring the use of a credit card, as taught by Muhammed on page 3 in paragraph 0036.

Regarding claim 5, Jones teaches wherein the paying step is further comprised of the step of using electronic billing to pay for said desired title in col 11 lines 57-59 ("credit card authorization is as known in the art"). Note that Applicant defines electronic billing as "the use of a credit/debit card reader" at line 18 on page 3 of the Specification.

Regarding claim 6, Jones discloses wherein the step of downloading said desired title is further comprised of the step of squirting said desired title from [a computer located substantially adjacent to] said kiosk to said PCD col 11 lines 47-57. (Examiner notes that Applicant has defined "squirting" as downloading on page 3 line 20 of the Application.) Although Jones doesn't explicitly teach that the download must take place from a computer outside of or substantially adjacent to

the kiosk, the location of that computer (within or outside of a kiosk) is merely a matter of design choice.

Claims 8 and 9 are to a computer-readable medium and a program storage medium, respectively, each storing program instructions for implementing the steps of claim 1. As such, they are substantially similar to claim 1 and rejected under the same rational.

10. Claim 7, which is dependent upon claim 1, is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Mohammad as applied to claim 1 above, and further in view of Hitson et al (US Patent Publication No. US 2002/0010759, filed provisionally Dec 30, 1999), hereinafter referred to as Hitson.

Although Jones in view of Mohammad teaches the elements of claim 1, they do not explicitly recite wherein said PCD is further comprised of a personal digital assistant (PDA).

Hitson, though teaches the use of PDAs in paragraph 0005 of page 1. Note that although Hitson expands the acronym as "Personal Desktop Assistant", Hitson lists the PALM VII as an exemplary PDA. The PALM VII is also listed as an exemplary personal digital assistant (PDA) device on page 4 of the Examiner-supplied background article on PDAs, entitled "Components/Mobile Computing Page 3 – PDA's".

It would have been obvious to one of ordinary skill in the art to incorporate the teachings of Hitson into the teachings of Jones in view of Mohammad because the use of such a device permits a user to communicate with a computer or to hook directly to the Internet, as disclosed by Hitson in the first sentence of paragraph 0005 on page 1.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Non-patent Literature

“Components/Mobile Computing: Page 3 - PDA’s”, PC TechGuide, 12 pages, www.pctechguide.com/25mob3.htm (last visited May 13, 2004).

“All About eBooks”, African American Literature Book Club, Revision 1.01, Jan. 5, 2000, 24 pages, <http://aablc.com>

Douglas, Mitchell, “Retail Kiosks: Breaking New Ground”, 12 Dec 2000, Kiosk Marketplace.com, 4 pages, www.kioskmarketplace.com/research_story.htm?article_id=5212&pavilion=8.

Hopper, D. Ian , “Stephen King plans exclusive eBook release”, CNN.com. book news, March 8, 2000, 3 pages, www.cnn.com/2000/books/news/03/08/king.ebook

Press, Larry, “From P-books to E-books”, Communications of the ACM, May 2000, vol. 23, no. 5, pp. 17-21.

US Patent Application Publications

Ishibashi et al	US 2001/0007980
Robertson	US 2001/0047441
McCurdy et al	US 2002/0035697
Pittarelli	US 2003/0061271
Mankovich et al	US 2003/0097338

<i>US Patents</i>	
Ferrel et al	5,907,837
Heutschi	6,335,678
Parry	6,470,232
Sachs et al	6,493,734
Maritzzen et al	6,595,342
Kolls	6,606,602
Clark et al	6,704,733

Any inquiry concerning this communication should be directed to Robert M. Stevens at telephone number (703) 605-4367. The Examiner can normally be reached Monday – Friday between 7:30 AM and 4:00 PM. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph Field, can be reached on (703) 305-9792. The fax phone number for the organization is assigned is (703) 305-9724.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business center (EBC) at (866) 217-9197 (toll free).

Robert M. Stevens
Examiner
Art Unit 2176
Date: May 27, 2004



JOSEPH FEILD
SUPERVISORY PATENT EXAMINER